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LEGISLATIVE COMMISSION ON THE RANDLEMAN LAKE PROJECT

REPORT TO THE

1989 GENERAL ASSEMBLY

OF NORTH CAROLINA

1989 SESSION

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NORTH CAROLINA GENERAL ASSEMBLY

November 21, 1988

TO THE MEMBERS OF THE 1989 GENERAL ASSEMBLY:

In accordance with the requirements of Part XXII, Chapter 873, 1987 Session Laws, the Legislative Commission on the Randleman Lake Project herewith presents its report and recommendations to the North Carolina General Assembly.

Respectfully submitted,

Senator Mary P. Seymour

Rep. Albert S. Lineberry, Sr.

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TABLE OF CONTENTS

INTRODUCTION 1

RECOMMENDATIONS AND FINDINGS OF THE COMMISSION 4

PROCEEDINGS BEFORE THE COMMISSION 9

APPENDIX:

A. List of Commission Members and Commission Staff 18

B. Chapter 873, 1987 Session Laws 19

C. Senate Bill 194, 1987 General Assembly 20

D. House Bill 317, 1987 General Assembly 22

E. Proposed Legislation, 1989 General Assembly 24

F. North Carolina General Statute § 153A-285 28

G. North Carolina General Statute § 162A-7 29

H. Vicinity Map of Randleman Lake Project 31

I. North Carolina State Parks Act 32

INTRODUCTION

The Legislative Commission on the Randleman Lake Project (hereafter "the Commission") was created by the 1987 General Assembly in Part XXII, Chapter 873, 1987 Session Laws. (Appendix B.) The Commission consists of ten members. Five are appointed by the Speaker of the House of Representatives and five are appointed by the President of the Senate. Both the Speaker of the House and the President of the Senate must each appoint at least one member of the Commission who is also a member of the governing board of the Piedmont Triad Regional Water Authority (hereafter "the Authority"). The Senate and House Cochairmen are appointed by their respective appointing officers.

The legislation establishing the Commission requires it to study the following:

1. The contractual responsibilities of state departments in developing and planning recreation and water supply projects for local governments;

2. Contracts required between the federal government and the state for the management of lands and waters of recreation and water supply projects;

3. The feasibility of the Randleman Lake Project to include federal, state and local funding responsibilities, water supply, recreation and flood control capability; and

4. The impact that development of the Randleman Lake Project may have on promoting tourism at the North Carolina Zoological Park in Asheboro.

At the time Chapter 873 was ratified, in August 1987, the Randleman Lake Project had been under consideration for a long period of time. The original conception was that the project would be constructed as a U.S. Corps of Engineers project which would include flood control and recreation aspects, as well as be a water supply. Legislation contemplating such a project was introduced in the 1987 General Assembly. (Appendix C and D.) Subsequently, the United States government withdrew its support of the project claiming that it was not economically justifiable as a flood control project, flood control being a primary purpose as far as the U.S. Corps of Engineers was concerned. Consequently, many of the questions directed to the Commission for study are no longer applicable to this project. Looking at those questions in conjunction with the present scope of the Randleman Lake Project, the questions for consideration become the following:

1. Whether the state should participate in a regional water supply project;

2. The feasibility of the Randleman Lake Project as a water supply and for recreation;

3. The impact that development of the Randleman Lake Project may have on promoting tourism at the North Carolina Zoological Park in Asheboro; and

4. Whether state funded recreational facilities should be developed in conjunction with the building of Randleman Lake.

Having pursued its assignment diligently, the Committee is prepared to make the recommendations which follow. These recommendations and the accompanying findings are responsive to the four questions listed immediately above.

Recommendation 1 -- The Commission recommends that the 1989 General Assembly appropriate $7.5 million to the Office of Budget and Management as a reserve for the Piedmont Triad Regional Water Authority for acquisition of land (for the reservoir, buffer areas surrounding the reservoir, access, and water treatment and distribution facilities), relocation of roads and utilities, engineering services, and construction of the Randleman dam and reservoir project. (See Appendix E.) These funds will be paid to the Authority as follows:

A. $4 million to be paid January 1, 1990 provided that the member governments of the Authority have met all contractual obligations required of them under their agreements with the Authority and each other up to the time of payment of these funds, and provided further that the Authority has obtained from the Environmental Management Commission the certificates required under G.S. 153A-285 and G.S. 162A 7. (Appendix F and G.)

B. $3.5 million to be paid January 1, 1991 provided the requirements for payment of the funds described in subparagraph A of this recommendation have been met, and provided further that all additional contractual obligations required of the member governments of the Authority up to the time of this second payment have also been met.

Recommendation II -- In the event the requirements for certificates under G.S. 153A-285 and G.S. 162A-7, described in subparagraph A in recommendation I above, have not been met by January 1, 1990, then the first payment may be released at any time between January 1, 1990 and June 30, 1991, after the certification requirements are met, provided all contractual obligations of the Authority members to the Authority and each other are current. The funds described in subparagraph B of recommendation I above may be released at any time between January 1, 1991 and June 30, 1991, after the requirements for certificates are met, and provided all contractual obligations of Authority members are current.

Findings in Support of Recommendations I and II -- The Commission finds that the Randleman Lake Project is a feasible undertaking of reasonable scope which will be of great benefit to an area of the state undergoing rapid growth which will soon strain its ability to supply itself with water. The state should participate in this project because it assures the drinking water supply of a large number of people and helps assure the continued economic growth of an entire region of the state.

The local governments involved in this project, being the members of the Piedmont Triad Water Authority, are the cities of Randleman, High Point, Jamestown, Archdale, and Greensboro, as well as the County of Randolph. If each of these entities were required to provide its own water supply on an

individual basis, there would be competition for the few good reservoir sites available and, developed as individual water sources, there would not be enough of them to go around. It is easy to see how the pressure of supplying water could easily push the need to protect area watersheds into the background. In addition, the attractiveness of the Piedmont Triad for economic growth would be greatly diminished by an uncertain water supply.

The Randleman Lake Project would provide a maximum safe daily water yield of 48 million gallons per day. It is expected that water could be drawn from the lake beginning around the year 2000 and the reservoir would have a minimum life span of 50 years from that time.

The $7.5 million recommended to be appropriated for this project represents about 13 percent of its cost, and about 34 percent of the amount the state had preliminarily committed itself to when the project was to be built by the U.S. Corps of Engineers. The balance of the needed funds, approximately $49.5 million, will be paid for by the local governments involved.

The purpose of making two annual appropriations of the funds is so that they will not be received by the Authority faster than they can be used. Also, certain requirements must be met to ensure that the Authority is in a position to actually go forward with the project before any state funds are expended. Specifically, the Authority members must have met their contractual obligations to the Authority and to each other, and the Authority must have obtained a certificate for eminent domain powers and a certificate for diversion

of water from one stream to another, as required by G.S. 153A 285 and G.S. 162A 7. (Appendix F and G.)

Recommendation III – The Commission recommends that the 1989 General Assembly appropriate $150,000 to the Parks and Recreation Division of the Department of Natural Resources and Community Development for the purpose of making a detailed plan and recommendations, in consultation with the counties of Guilford and Randolph and the Piedmont Triad Regional Water Authority, for the recreational use of the Randleman reservoir. This plan and recommendations shall be reported to the 1993 General Assembly by delivering copies to the President of the Senate, Speaker of the House of Representatives, President Pro Tempore of the Senate and the Speaker Pro Tempore of the House. In addition, copies shall be delivered to the Governor and the Cochairmen of the Study Commission on State Parks and Recreation Areas. The plan and recommendations shall be delivered not later than ten days after the beginning of the 1993 Legislative Session.

Findings in Support of Recommendation III – The Commission spent a good deal of time looking at the question of whether there should be recreational uses associated with the Randleman Lake Project and, if so, what those uses should be. The Commission finds there is great likelihood that recreational facilities at Randleman Lake would increase attendance at the North Carolina Zoological Park by giving an added incentive to people outside day trip distance to come to the area because of the availability of additional activities.

thus justifying an overnight stay. More North Carolinians as well as people from out-of-state would visit the area, giving a boost to the local economy.

The Commission also finds that the existence of the lake is likely to attract people whether or not there are facilities for them. A lack of facilities means uncontrolled and problematic usage of the lake by the public. Though the Authority favors recreational development, it is not in a position to undertake the purchase of the necessary land or the development itself. This raises the question of whether the state should purchase the land for recreation and provide for its development. However, when the Commission attempted to look at what type of recreational facilities would be appropriate and how much they would cost, it became apparent that the only way to determine this is for a properly funded, detailed study to be made by the Division of Parks and Recreation. The Commission does recommend that such a study be funded and undertaken by the Division in consultation with representatives of the affected counties and the Authority. This will give the 1993 General Assembly a specific recommendation to consider. Given the estimated completion date of the reservoir, there will be ample time to proceed with the purchase of land and the development of recreational facilities, if the Legislature makes that decision in 1993.

PROCEEDINGS BEFORE THE COMMISSION

The Commission held a total of six meetings during which it heard from a variety of witnesses and covered a number of different subjects associated with the Randleman Lake Project.

The first meeting of the Commission was held December 7, 1987. Committee Counsel reviewed the legislative action leading up to the formation of the Commission. Two bills were introduced in the 1987 General Assembly relating to the construction of the Randleman Lake Project. These were Senate Bill 194 and House Bill 317. (See Appendix C and D.) These bills were substantially the same and contemplated state participation in a project which would be built by the U.S. Corps of Engineers. They authorized the Department of Natural Resources and Community Development to enter into a contract with the United States whereby the Department would act as the State's cooperating agency for the purpose of managing the recreation aspects of the Randleman Lake Project. The arrangement with the federal government required that the state pay one half of the separable costs of the project allocated to recreational purposes along with costs of operation, maintenance and replacement items. The state was also required to pay 25 percent of the costs of the project allocated to flood control. Authority was granted for these payments to be made when the funds were allocated by the General Assembly. The bills went on to appropriate to the Department of Natural Resources and Community Development the sum of $2 million for fiscal year 1987-88 and the sum of $12.2 million for fiscal year 1988-89 to pay for the state's portion of Randleman Lake Project costs. After these bills were introduced,

and after many years of involvement in the project, the United States Corps of Engineers withdrew its support of the project as a flood control project, which meant that it would not participate in construction of the project at all. Chapter 873 of the 1987 Session Laws (Appendix B), which authorized this Commission, still contemplated participation by the U. S. Corps of Engineers. When it became obvious that this participation was no longer available, the Commission turned its attention to questions related to the current conception of the Randleman Lake Project as one intended primarily for a water supply and paid for primarily by the local governments which would be the beneficiaries of it.

Mr. Tom Osborne, a member of the Commission and the chairman of the Piedmont Triad Regional Water Authority, reviewed the history of the Randleman Lake Project and some of the issues associated with it. He pointed out that the Randleman Lake Project, to be located in Guilford and Randolph counties (Appendix H), had been under discussion for approximately 40 years and that the U.S. Corps of Engineers had done substantial work on the planning of the project, amounting to about $4 to $6 million in value. This was turned over to the Piedmont Triad Water Authority when the Corps abandoned the project. The Piedmont Triad Water Authority was begun by area local governments which had originally gotten together for the purpose of assisting the Corps in the development of the lake as a combined water supply, flood control and recreational project. In 1986 the five cities of Greensboro, High Point, Jamestown, Randleman and Archdale, together with Randolph County, formally created the Piedmont Triad Regional Water Authority.

In 1987, when the U.S. Corps of Engineers said it could not justify the project any longer because it did not meet the Corps' criteria as a flood control project, the

Authority stepped in for the purpose of developing the project as a water supply on behalf of the member local governments. Development of a regional water supply is especially appealing as competition for available reservoir sites intensifies, the significance of watershed protection increases, and the economics of such projects makes them unworkable for many local governments acting alone.

Mr. Osborne pointed out, and this was confirmed by Mr. John Morris, Director of the Division of Water Resources of the Department of Natural Resources and Community Development, that the state, in accordance with the Corps of Engineers' requirements, had over the years sent numerous letters of intent to the Corps indicating the state's willingness to pay its share of the project costs. Mr. Osborne stated that the share contemplated for the state at the time the Corps pulled out would eventually have totaled approximately $22 million.

As presently planned, the proposed project will have a total cost of approximately $57 million. The lake and the surrounding 200 foot buffer area would comprise slightly more than 6,000 acres. The safe yield of water would be approximately 48 million gallons per day. Eventually, and at additional cost, a water treatment plant would be constructed at the site of the lake so that the Authority would have the ability to provide treated water for its members who desire to purchase it. It is expected that land acquisition will begin during 1988-89, with the lake being completed in the year 2000.

The agreement entered into by the local governments which formed the Piedmont Triad Regional Water Authority provides for allocation of raw water resources from the lake for the member local governments. Payment by those local governments for their

share of the construction of the project is based upon the percentage of raw water allocated to them. A unique feature of the agreement is a provision for interim agreements between the local governments for sales of water between them so that those who currently have excess capacity can sell to those who currently have water shortages. Mr. Osborne raised with the Commission the possibility of the state contributing $7.5 million toward the purchase of the project property and the construction of the project.

Mr. Osborne also suggested that the state should purchase additional land around the lake and develop it for recreational purposes. He pointed out the close proximity of the North Carolina Zoological Park and expressed the opinion that the proper type of recreational development at the lake could greatly enhance attendance at the Zoological Park and travel to the region by tourists.

Mr. Morris, of the Division of Water Resources, pointed out that the Piedmont Triad Area is the only large urban area in North Carolina that does not have a good water supply for the future and he stated that the Department of Natural Resources and Community Development had been in support of this project for many years. He also pointed out the need to give consideration to recreational use of the lake by the public. He expressed his concern that if this was not planned for, the public would still make use of the lake for recreation, but in an unsupervised and uncontrolled way.

Mr. Bill Holman, representing the North Carolina Sierra Club, told the Commission that the Sierra Club had been opposed to the Randleman Lake Project when it was a federal project because it was too large, too expensive, and there was concern about the water quality. Now that the project was scaled down, their concerns

were somewhat different. Their major concern is water quality as it is affected by local zoning ordinances. Mr. Holman urged the Commission to look at the possibility of a recommendation to the General Assembly that, if it is going to assist local governments in developing their water supply projects, it should make sure these local governments have adopted adequate planning and zoning standards.

At its meeting of January 4, 1988, the Commission heard from Mr. John Kime, who had just become Executive Director of the Piedmont Triad Regional Water Authority. He reviewed the current mapping and surveying schedules of the Authority.

Mr. Robert Frye, Director of the North Carolina Zoological Park in Asheboro, addressed the question of how construction of Randleman Lake would affect the zoo. In his opinion, if the recreational activities developed at the lake were the type that would cause families to stay overnight, this would have the effect of increasing attendance at the zoo. He believes that, at the present time, most people visiting the zoo are those within a one day round trip distance. Having an attraction that would give visitors a reason to stay over would bring more people from further away.

At this meeting, the Commission also heard from the planning departments of Guilford County and Randolph County with regard to the watershed protection plans of those counties. At the time of the meeting, Guilford County had enacted its watershed protection regulations and Randolph County was about to do so. Since that meeting Randolph County has adopted watershed protection regulations for the protection of Randleman Lake.

The Commission met again on February 8, 1988 and considered two specific topics. The first was the question of interbasin transfers. The second involved a closer look at possible recreational activities around the lake.

North Carolina law provides that no county or city acting jointly and no joint agency may divert water from one stream or river to another until such diversion is authorized by the North Carolina Environmental Management Commission. Since the Piedmont Triad Regional Water Authority is a joint agency involving cities and counties, and since there is a certain amount of "interbasin transfer" of water involved in the Randleman Lake Project, the Commission sought information on this subject. Mr. John Morris, Director of the Water Resources Division of the Department of Natural Resources and Community Development, addressed the Commission on this point. He explained the meaning of interbasin transfer, discussed the extent of such transfers around the state, and also discussed the interbasin transfers which might be involved in the Randleman Lake Project.

Interbasin transfers typically occur where a city is situated at a dividing point between two river basins, often upon a ridge line. If it pumps its water from one of those river basins but then allows its waste water to be discharged into whichever basin gravity favors, you have a situation where water is being removed from one river basin with at least some of that water being returned to a different river basin. The potential problem here is the deprivation of the areas downstream from at least a part of the normal flow of the tributaries of a particular river basin. Thus, at least where joint actions of cities and counties are concerned, the state regulates such transfers by requiring a certificate from the Environmental Management Commission (Appendix F.). The proceeding for such a certificate is governed by G.S. 162A-7 (Appendix G) which

brings into play a number of considerations, such as the necessity of the project, whether it will increase the storage or conservation of water, the probable detriment caused by the project, the feasibility of alternative sources of water supply, and what will produce the maximum benefits regarding the use of water for all areas of the state affected by the proposed project or alternatives to the project.

The Randleman Lake Project is in the Cape Fear River Basin. The City of High Point has one of its waste water discharges going into a tributary of the Yadkin River. Thus, to the extent that some water from Randleman Lake is ultimately discharged into the Yadkin River there is an interbasin transfer. There are some other possible mixtures of water among the governments involved in the Authority which may result in small amounts of interbasin transfer.

The Commission heard from Dr. Phillip McKnelly, Deputy Director of the Division of Parks and Recreation. He discussed the State Parks Act (Appendix I), the state's participation in the development of recreational facilities at Kerr Lake and Jordan Lake, and explained the different possibilities for recreational experiences depending upon the extent of development which was desired and upon what was compatible with a water supply lake. He discussed with the Commission the possible size and type of recreation area that might be needed around the lake. He felt that the withdrawal of the U.S. Army Corps of Engineers and the resulting changes in project design, construction standards, and cost estimates, invalidated the existing studies on possible recreational uses of Randleman Lake. He said that to respond responsibly on this point, the Division of Parks and Recreation would have to conduct an independent study of the proposal, supported by adequate funding from the General Assembly.

Dr. McKnelly also discussed the possible effect of a recreational area around the lake upon the North Carolina Zoological Park. He said it was difficult to predict the impact without knowing what type of recreational activity would be developed. However, there would be a definite difference in impact depending upon whether or not overnight facilities were provided at the reservoir. During questioning by the Commission, Dr. McKnelly pointed out that there had been problems around lakes where recreational facilities had not been authorized and developed ahead of time. He said he felt Randleman Lake would have the same problems. At other lakes, particularly Jordan Lake, where recreational facilities were not provided, the public nevertheless made use of the lake for recreational activities which were uncontrolled and which presented significant law enforcement problems for the local authorities. At both Jordan Lake and Kerr Lake, the state has ultimately had to provide additional law enforcement funds for the counties in order to allow them to exercise some control around the lakes.

The March 7, 1988 meeting saw a continuation of the discussion of possible recreational facilities around Randleman Lake. Dr. McKnelly reiterated that without going through a full planning process it is difficult to predict the cost of recreational development at Randleman Lake. Also, there is a wide degree of difference in cost depending upon whether you are trying to attract visitors from outside the area or create a recreational experience for local people.

At the end of this meeting, the Commission felt it was ready to begin looking at recommendations to the 1989 General Assembly. It appointed a subcommittee to draft proposed recommendations and return them to the Commission for further discussion.

At the September 12, 1988 meeting, the recommendations of the subcommittee were presented to the full Commission. After extensive discussion the full Commission directed that a report containing the subcommittee's recommendations be drafted for later presentation to the Commission.

The final meeting of the Commission took place on November 21, 1988. After a review of the proposed report it was approved by the Commission for presentation to the 1989 General Assembly.

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PART XXII. RANDLEMAN LAKE PROJECT STUDY COMMISSION

Sec. 22.1. Creation; membership. The Legislative Commission on the Randleman Lake Project is created. The Commission shall consist of ten members: five members appointed by the Speaker of the House of Representatives, at least one of whom shall be a member of the governing board of the Piedmont Triad Regional Water Authority, and five members appointed by the President of the Senate, at least one of whom shall be a member of the governing board of the Piedmont Triad Regional Water Authority. The appointing officers shall each name a cochairman from his appointees. Vacancies shall be filled by the original appointing officers. The Commission shall meet on the joint call of the cochairmen.

Sec. 22.2. Staff; meeting place. The Commission may hire its own professional staff. Upon the approval of the Legislative Services Commission, the Legislative Administrative Officer shall assign professional and clerical staff to the Commission through the offices of House and Senate Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the Commission. The Commission may meet in the State Legislative Building or the Legislative Office Building, upon the prior approval of the Legislative Services Commission.

Sec. 22.3. Compensation of Commission members. Members of the Commission shall be paid subsistence and travel expenses as follows:

(1) Commission members who are also General Assembly members at the rate established in G.S. 120-3.1;

(2) Commission members who are also officials or employees of the State at the rate established in G.S. 138-6;

(3) All other Commission members at the rate established in G.S. 138-5.

Sec. 22.4. Duties; reporting date. The Commission shall study:

(1) The contractual responsibilities of State departments in developing and planning recreation and water supply projects for local governments;

(2) Contracts to be joined between the federal government and the State for the management of lands and waters of recreation and water supply projects;

(3) The feasibility of the Randleman Lake Project to include federal, State, and local funding responsibilities, water supply, recreation, and flood control capability; and

(4) The impact that development of the Randleman Lake Project may have on promoting tourism at the North Carolina Zoological Park in Asheboro.

Sec. 22.5. The Commission shall report the findings and recommendations of its study to the General Assembly by February 1, 1989.

Sec. 22.6. There is appropriated to the Legislative Services Office for the Legislative Commission on the Randleman Lake Project from the General Fund the

[illegible] ... [illegible] ... [illegible] ... [

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1987

S **1**

SENATE BILL 194*

Short Title: Randleman Lake Project. (Public)

Sponsors: Senators Seymour, Martin of Guilford, Shaw, Walker, Hunt of Moore.

Referred to: Natural and Economic Resources and Wildlife.

March 19, 1987

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT TO ENTER INTO AN AGREEMENT WITH THE UNITED STATES OF AMERICA FOR PARTICIPATION IN THE RANDLEMAN LAKE PROJECT.

Whereas, the construction of the Randleman Lake Project was duly authorized by the Congress of the United States by the Flood Control Act of 1968 (Public Law 90-483); and

Whereas, the federal government under the Federal Water Projects Recreation Act (Public Law 89-72), is authorized to enter into agreements with non-federal public bodies for the management of land and water areas of such projects for recreation; and

Whereas, the Water Resources Development Act of 1986 (Public Law 99-662) requires that a non-federal project sponsor pay a portion of the cost of such projects attributed to flood control; and

Whereas, the Department of Natural Resources and Community Development is the agency of the State of North Carolina authorized by State statute to be the cooperating agency for the purpose of recreation administration and cost sharing at such projects; and

Whereas, the provisions of Public Law 89-72 and Public Law 99-662 require that such cooperating agency enter into a written agreement with the United States of America, that said agency will manage the project land and water areas for recreation, bear at least one half of the separable cost of the project allocated to such purpose, and bear all of the cost of operation and maintenance and replacement incurred therefor; and

Whereas, the provisions of Public Law 99-662 require that such cooperating agency enter into a written agreement with the United States of America, that said agency will bear at least twenty five percent (25%) of the cost of the project allocated to flood control; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Department of Natural Resources and Community Development may execute a contract with the United States of America whereby said Department agrees to act as the cooperating agency for the purpose of managing the lands and waters of the Randleman Lake Project for recreation. The Department also may pay one half of the separable cost of the project allocated to recreational purposes and to pay such cost of operation, maintenance, and replacement as may be incurred for this project. The Department may also pay twenty five percent (25%) of the cost of the project allocated to flood control. The Department may make such payments in the required installments from appropriations provided by the General Assembly for these purposes and from any other funds available to the Department.

Sec. 2. There is appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of two million dollars ($2,000,000) for fiscal year 1987-88 and the sum of twelve million two hundred thousand dollars ($12,200,000) for fiscal year 1988-89 to pay costs of the Randleman Lake Project as provided by Section 1 of this act.

Sec. 3. This act shall become effective July 1, 1987.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1987

H **1**

HOUSE BILL 317*

Short Title: Randleman Lake Project. (Public)

Sponsors: Representatives Gist; Boyd, Brubaker, Chalk, Decker, Jarrell, Keesee-Forrester, Limeberry, Sizemore.

Referred to: Natural and Economic Resources.

March 25, 1987

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT TO ENTER INTO AN AGREEMENT WITH THE UNITED STATES OF AMERICA FOR PARTICIPATION IN THE RANDLEMAN LAKE PROJECT.

Whereas, the construction of the Randleman Lake Project was duly authorized by the Congress of the United States by the Flood Control Act of 1968 (Public Law 90-483); and

Whereas, the federal government under the Federal Water Projects Recreation Act (Public Law 89-72), is authorized to enter into agreements with non-federal public bodies for the management of land and water areas of such projects for recreation; and

Whereas, the Water Resources Development Act of 1986 (Public Law 99-662) requires that a non federal project sponsor pay a portion of the cost of such projects attributed to flood control; and

Whereas, the Department of Natural Resources and Community Development is the agency of the State of North Carolina authorized by State statute to be the cooperating agency for the purpose of recreation administration and cost sharing at such projects; and

Whereas, the provisions of Public Law 89-72 and Public Law 99-662 require that such cooperating agency enter into a written agreement with the United States of America, that said agency will manage the project land and water areas for recreation, bear at least one half of the separable cost of the project allocated to such purpose, and bear all of the cost of operation and maintenance and replacement incurred therefor; and

Whereas, the provisions of Public Law 99-662 require that such cooperating agency enter into a written agreement with the United States of America, that said agency will bear at least twenty five percent (25%) of the cost of the project allocated to flood control; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. The Department of Natural Resources and Community Development may execute a contract with the United States of America whereby said Department agrees to act as the cooperating agency for the purpose of managing the lands and waters of the Randleman Lake Project for recreation. The Department also may pay one half of the separable cost of the project allocated to recreational purposes and to pay such cost of operation, maintenance, and replacement as may be incurred for this project. The Department may also pay twenty five percent (25%) of the cost of the project allocated to flood control. The Department may make such payments in the required installments from appropriations provided by the General Assembly for these purposes and from any other funds available to the Department.

Sec. 2. There is appropriated from the General Fund to the Department of Natural Resources and Community Development the sum of two million dollars ($2,000,000) for fiscal year 1987-88 and the sum of twelve million two hundred thousand dollars ($12,200,000) for fiscal year 1988-89 to pay costs of the Randleman Lake Project as provided by Section 1 of this act.

Sec. 3. This act shall become effective July 1, 1987.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

D

89S-RL-002
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Short Title: Piedmont Triad Water Funds (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO APPROPRIATE FUNDS TO THE PIEDMONT TRIAD REGIONAL WATER AUTHORITY TO ASSIST IN THE CONSTRUCTION OF THE RANDLEMAN LAKE RESERVOIR AND TO APPROPRIATE FUNDS TO THE PARKS AND RECREATION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT FOR THE PURPOSE OF PLANNING AND RECOMMENDATIONS FOR THE RECREATIONAL USES OF RANDLEMAN LAKE.

The General Assembly of North Carolina enacts:

Section 1. Appropriation of funds for the Randleman Lake Project.--There is appropriated from the General Fund to the Office of the Governor, Office of State Budget and Management, the sum of four million dollars ($4,000,000) for the 1989-90 fiscal year, and the sum of three million five hundred thousand dollars ($3,500,000) for the 1990-91 fiscal year, to be placed in a reserve for use by the Piedmont Triad Regional Water Authority (hereafter "the Authority") for acquisition of land for the

Randleman Lake Project, provided this land is used for the reservoir, buffer areas surrounding the reservoir, access to the project, and water treatment and distribution facilities. Funds in the reserve may also be used for the relocation of roads and utilities, for engineering services, and for construction of the Randleman dam and reservoir project. Funds in the reserve shall not revert at the end of the 1989-90 fiscal year, but shall remain available for use as provided in this act until June 30, 1991. The funds appropriated in this section shall also be subject to the restrictions set forth in Sections 2 and 3 of this act.

Sec. 2. Restrictions on release of funds from reserve. --(a) The funds appropriated for the 1989-90 fiscal year shall not be paid to the Authority (i) unless the member governments of the Authority have met all contractual obligations required of them under their agreements with the Authority and each other pertaining to the Randleman Lake Project, up to the time of payment of the funds, and (ii) the Authority has obtained from the Environmental Management Commission the certificates required of it under G.S. 153A-285 and G.S. 162A-7.

(b) The funds appropriated for the 1990-91 fiscal year shall be released to the Authority on January 1, 1991, if the requirements for payment of the funds appropriated for the 1989-90 fiscal year have been met and all additional contractual obligations required of the member governments of the Authority pertaining to the Randleman Lake Project, up to the time of the second payment, have also been met.

(c) The Authority shall provide the Office of State Budget and Management documentation and other information as the Office of State Budget Management shall require in order to be sure that the requirements for release of the appropriated funds have been met.

Sec. 3. Late release of funds.--In the event the requirements for the certificates required by G.S. 153A-285 and G.S. 162A-7 have not been met by January 1, 1990, then the funds appropriated for the 1989-90 fiscal year may be released at any time between January 1, 1990 and June 30, 1991, after the certification requirements are met, provided all contractual obligations of the Authority members to the Authority and each other concerning the Randleman Lake Project are current. In the event the requirements for certificates under G.S. 153A-285 and G.S. 162A-7 have not been met by January 1, 1991, then the funds appropriated for the 1990-91 fiscal year may be released at any time between January 1, 1991 and June 30, 1991, after the requirements for the certificates are met, provided all contractual obligations of Authority members to the Authority and each other relating to the Randleman Lake Project are current.

Sec. 4. Appropriation for study of recreational facilities at Randleman Lake.--There is appropriated from the General Fund to the Parks and Recreation Division of the Department of Natural Resources and Community Development the sum of seventy-five thousand dollars ($75,000) for the 1989-90 fiscal year and the sum of seventy-five thousand dollars ($75,000) for the 1990-91 fiscal year for the purpose of making a detailed plan and recommendations for the recreational use of Randleman Lake. The plan and recommendations shall be made in consultation with the counties of Guilford and Randolph and with the Piedmont Triad Regional Water Authority. The Division shall report the plan and recommendations to the 1993 General Assembly by delivering copies to the President of the Senate, Speaker of the House of Representatives, President Pro Tempore of the Senate, and the Speaker Pro Tempore of the House of Representatives. In addition, the Division shall deliver copies to the Governor, and the Cochairmen of the Study Commission on State Parks and

Recreation Areas if that Study Commission is in existence at that time. The plan and recommendations shall be delivered not later than ten days after the beginning of the 1993 legislative session.

Sec. 5. This act shall become effective July 1, 1989.

GS-153A-285

§153A-285. Prerequisites to acquisition of water, water rights, etc.

The word "authority" as used in G.S. 162A-7(b) through (f) includes counties and cities acting jointly or through joint agencies to provide water services or sewer services or both. No county or city acting jointly and no joint agency may divert water from one stream or river to another nor institute any proceeding in the nature of eminent domain to acquire water, water rights, or lands having water rights attached thereto until the diversion or acquisition is authorized by a certificate from the Board of Water and Air Resources pursuant to G.S. 162A-7. Any proceeding to secure a certificate from the Board shall be governed by the provisions of G.S. 162A-7(b) through 162A-7(f). (1961, c. 1001, s. 1; 1973, c. 822, s. 1.)

GS-162A-7

§162A-7. Prerequisites to acquisition of water, etc., by eminent domain.

(a) No authority shall institute proceedings in the nature of eminent domain to acquire water, water rights, or lands having water rights attached thereto without first securing from the Board a certificate authorizing such acquisition.

(b) An authority seeking such certificate shall petition the Board therefor in writing, which petition shall include a description of the waters or water rights involved, the plans for impounding or diverting such waters, and the names of riparian owners affected thereby insofar as known to the authority. Upon receipt of such petition, the Board shall hold public hearing thereon after giving at least 30 days' written notice thereof to known affected riparian owners and notice published at least once each week for two successive weeks in a newspaper or newspapers of general circulation in each county in which lower riparian lands lie.

(c) The Board shall issue certificates only to projects which it finds to be consistent with the maximum beneficial use of the water resources in the State and shall give paramount consideration to the statewide effect of the proposed project rather than its purely local or regional effect. In making this determination, the Board shall specifically consider:

(1) The necessity of the proposed project;

(2) Whether the proposed project will promote and increase the storage and conservation of water;

(3) The extent of the probable detriment to be caused by the proposed project to the present beneficial use of water in the affected watershed and resulting damages to present beneficial users;

(4) The extent of the probable detriment to be caused by the proposed project to the potential beneficial use of water on the affected watershed;

(5) The feasibility of alternative sources of supply to the petitioning authority and the comparative cost thereof;

(6) The extent of the probable detriment to be caused by the use of alternative sources of supply to present and potential beneficial use of water on the watershed or watersheds affected by such alternative sources of supply;

(7) All other factors as will, in the Board's opinion, produce the maximum beneficial use of water for all in all areas of the State affected by the proposed project or alternatives thereto.

Upon the considerations above set forth, the Board may grant its certificate in whole or in part or it may refuse the same.

(d) At the public hearing provided for in subsection (b) above the Board shall hear evidence from the authority and any others in support of its petition and from all persons opposed thereto.

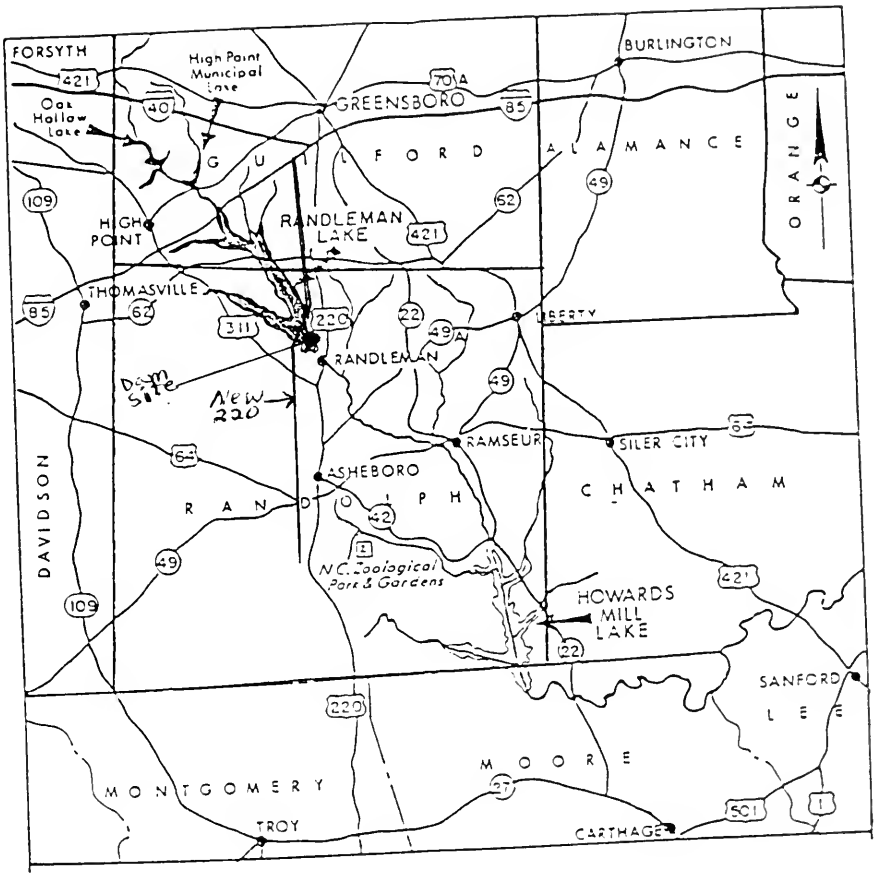
(e) At any hearing authorized by this section, the Board shall have power to administer oaths; to take testimony; to issue subpoenas and compel the attendance of witnesses, which shall be served in the same manner as subpoenas issued by the superior courts of the State; and to

order the taking of depositions in the same manner as depositions are taken for use in the superior court.

(f) Any final order or decision of the Board in administering the provisions of this section shall be subject to judicial review at the instance of any person or authority aggrieved by such order or decision by complying with the provisions of Article 33, Chapter 143 of the General Statutes of North Carolina. (1955, c. 1195, s. 6 1/2.)

VICINITY MAP

(NO SCALE)



State Parks Act.

§ 113-44.7. Short title.

This Article shall be known as the State Parks Act. (1987, c. 243, s. 2.)

Editor's Note. — Session Laws 1987, c. 243, s. 2 makes this Article effective upon ratification. The act was ratified June 2, 1987.

§ 113-44.8. Declaration of policy and purpose.

(a) The State of North Carolina offers unique archaeologic, geologic, biological, scenic, and recreational resources. These resources are part of the heritage of the people of this State. The heritage of a people should be preserved and managed by those people for their use and for the use of their visitors and descendants.

(b) The General Assembly finds it appropriate to establish the State Parks System. This system shall consist of parks which include representative examples of the resources sought to be preserved by this Article, together with such surrounding lands as may be appropriate. Park lands are to be used by the people of this State and their visitors in order to promote understanding of and pride in the natural heritage of this State.

(c) The tax dollars of the people of the State should be expended in an efficient and effective manner for the purpose of assuring that the State Parks System is adequate to accomplish the goals as defined in this Article.

(d) The purpose of this Article is to establish methods and principles for the planned acquisition, development, and operation of State parks. (1987, c. 243, s. 1.)

§ 113-44.9. Definitions.

As used in this Article, unless the context requires otherwise:

(1) "Department" means the Department of Natural Resources and Community Development.

(2) "Park" means any tract of land or body of water comprising part of the State Parks System under this Article, including existing State parks, State natural areas, State recreation areas, State trails, State rivers, and State lakes.

(3) "Plan" means State Parks System Plan.

(4) "Secretary" means the Secretary of the Department of Natural Resources and Community Development.

(5) "State Parks System" or "system" mean all those lands and waters which comprise the parks system of the State as established under this Article. (1987, c. 243, s. 1.)

§ 113-44.10. Powers of the Secretary.

The Secretary shall implement the provisions of this Article and shall be responsible for the administration of the State Parks System. (1987, c. 243, s. 1.)

§ 113-44.11. Preparation of a System Plan.

(a) The Secretary shall prepare and adopt a State Parks System Plan by December 31, 1988. The Plan, at a minimum, shall:

(1) Outline a method whereby the mission and purposes of the State Parks System as defined in G.S. 113-44.8 can be achieved in a reasonable, timely, and cost-effective manner;

(2) Evaluate existing parks against these standards to determine their statewide significance;

(3) Identify duplications and deficiencies in the current State Parks System and make recommendations for correction;

(4) Describe the resources of the existing State Parks System and their current uses, identify conflicts created by those uses, and propose solutions to them; and

(5) Describe anticipated trends in usage of the State Parks System, detail what impacts these trends may have on the State Parks System, and recommend means and methods to accommodate those trends successfully.

(b) The Plan shall be developed with full public participation, including a series of public meetings held on adequate notice under rules which shall be adopted by the Secretary. The purpose of the public meetings and other public participation shall be to obtain from the public:

(1) Views and information on the needs of the public for recreational resources in the State Parks System;

(2) Views and information on the manner in which these needs should be addressed;

(3) Review of the draft plan prepared by the Secretary before he adopts the Plan.

(c) The Secretary shall revise the Plan at intervals not exceeding five years. Revisions to the Plan shall be made consistent with and under the rules providing public participation in adoption of the Plan. (1987, c. 243, s. 1.)

§ 113-44.12. Classification of parks resources.

After adopting the Plan, the Secretary shall identify and classify the major resources of each of the parks in the State Parks System, in order to establish the major purpose or purposes of each of the parks, consistent with the Plan and the purposes of this Article. (1987, c. 243, s. 1.)

§ 113-44.13. General management plans.

Every park classified pursuant to G.S. 113-44.12 shall have a general management plan. The plan shall include a statement of purpose for the park based upon its relationship to the System Plan and its classification. An analysis of the major resources and facilities on hand to achieve those purposes shall be completed along with a statement of management direction. The general management plan shall be revised as necessary to comply with the System Plan and to achieve the purposes of this Article. (1987, c. 243, s. 1.)

§ 113-44.14. Additions to and deletions from the State Parks System.

(a) If, in the course of implementing G.S. 113-44.12 the Secretary determines that the major purposes of a park are not consistent with the purposes of this Article and the Plan, the Secretary may propose to the General Assembly the deletion of that park from the State Parks System. On a majority vote of each house of the General Assembly, the General Assembly may remove the park from the State Parks System. No other agency or governmental body of the State shall have the power to remove a park or any part from the State Parks System.

(b) New parks shall be added to the State Parks System by the Department after authorization by the General Assembly. Each additional park shall be authorized only by an act of the General Assembly. Additions shall be consistent with and shall address the needs of the State Parks System as described in the Plan. All additions shall be accompanied by adequate authorization and appropriations for land acquisition, development, and operations. (1987, c. 243, s. 1.)